

annum; provided, said Revenue Agent, or any deputy revenue agent, shall not be allowed traveling expenses for any service connected with the examinations of the accounts of any institution in Travis county."

Sec. 2. There is hereby appropriated out of the general revenue the sum of \$3600 per annum, or so much thereof as may be necessary, in addition to the sums appropriated in the appropriation bill passed at the Regular Session of the Thirtieth Legislature to pay said salaries.

Sec. 3. The importance of this bill creates an emergency and an imperative public necessity, requiring that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and that this act take effect from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, April 22, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Finance Committee, to whom was referred

Senate bill No. 29, A bill to be entitled "An Act to amend Article 5064, Chapter 2, Title XCIV, of the Revised Civil Statutes, relating to property subject to taxation, and the mode of rendering the same, and to define for purposes of taxation the meaning of the following words, as they appear in said chapter and title, viz.: True and full value, fair market value in cash, the prices that could be obtained therefor at private sale, actual value, final valuation, valuation, its true and full value in money, fairly worth in money, fair voluntary sale for cash, its true and full value in money, at the full amount thereof, at the full value of the same so payable. The value of the current price of such property, at the place when payable. Shall be valued at the price that the person believes the same to be worth in money, which phases are set forth and mentioned in Articles 5073-5077, 5078, 5083 and 5088, Revised Civil Statutes, in said Chapter 2, Title XCIV, shall be construed to mean for the purpose of uniformity in rendition or assessing any and all property for taxation to be 50 per centum of the fair market value for which any such property is so assessed would sell for at a fair valuation at private sale, fixing the time for the assessment and valuation of such property between first of January up to the time of rendition for the year

the same is assessed, with an emergency clause,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

WILLACY, Chairman.

Committee Room,

Austin, Texas, April 23, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 19, A bill to be entitled "An Act to amend Article 1043, Revised Statutes and to add thereto Article 1043a, regulating the certification of questions of law by the Courts of Civil Appeals to the Supreme Court in cases of conflict of decisions and in cases of disagreement of the judges of a Court of Civil Appeals, and repealing Articles 1040 and 1041, Revised Statutes, and also repealing an act of the Twenty-sixth Legislature, approved May 9, 1899, entitled 'An Act to define the powers and duties of the Courts of Civil Appeals of the several Supreme Judicial Districts of the State of Texas, where there is, or may be, a conflict of opinion by any of the said Courts of Civil Appeals on a question of law involved in any cause pending before said courts, and prescribing the duties of the Supreme Court of the State of Texas in such cases,' and declaring an emergency,"

And find the same correctly engrossed.

CUNNINGHAM, Chairman.

NINTH DAY.

Senate Chamber,

Austin, Texas,

Wednesday, April 24, 1907.

Senate met pursuant to adjournment.

Lieutenant Governor Davidson in the chair.

Roll call, quorum present, the following Senators answering to their names:

Alexander.	Holsey.
Barrett.	Hudspeth.
Brachfield.	Kellie.
Chambers.	Looney.
Cunningham.	Mayfield.
Faust.	Meachum.
Glasscock.	Murray.
Green.	Paulus.
Greer.	Senter.
Grinnan.	Skinner.
Harbison.	Smith.
Harper.	Stokes.

Stone.
Terrell.
Veale.

Watson.
Willacy.

Absent.

Masterson.

Absent—Excused.

Griggs.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Stone, the same was dispensed with.

(See Appendix for committee reports.)

BILLS AND RESOLUTIONS.

By Senator Hudspeth:

Senate bill No. 45, A bill to be entitled "An Act to permit parties to civil suits in the district and county courts to specially plead the facts constituting their cause of action or defense."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Smith:

Senate bill No. 46, A bill to be entitled "An Act to regulate the practice in the district, county and appellate courts and Supreme Court of the State, and with an emergency clause."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Hudspeth:

Senate bill No. 47, A bill to be entitled "An Act to limit the jurisdiction of the several courts of the State of Texas in suits by parties who are not citizens of this State, and declaring an emergency."

Read first time, and referred to Judiciary Committee No. 1.

Morning call concluded.

EXTENDING THANKS.

The Chair had the following read to the Senate:

Galveston, Texas, April 23, 1907.

Lieutenant Governor Davidson, President of the Senate, Austin, Texas.

Executive committee Daughters of the Republic of Texas, in session, passed resolution of thanks to the Senate for use of Senate Chamber for annual convention.

MRS. CORNELIA BRANCH STONE,
Secretary.

Austin, Texas, April 23, 1907.

To the President of the Senate and the other Honorable Members of the Senate.

Gentlemen: The Daughters of the Republic of Texas, at their sixteenth annual meeting on April 20th, passed a resolution thanking you for the use of your beautiful Senate Chamber. The surroundings filled us with inspiration and gratitude, and we, though ever proud of being Texans, felt that within those walls we needs must act as such.

Thanking you individually and collectively, we are,

Very respectfully,

MRS. WHARTON BATES,

1st Vice President D. R. T.,

MRS. J. W. CAMPBELL,

MRS. M. G. HOWE,

MRS. ADELE B. LOOSCAN,

ADINA DeZAVALA,

ANNIE HUME.

SENATE BILL NO. 1.

The Chair laid before the Senate, on second reading and pending business,

Senate bill No. 1, A bill to be entitled "An Act to amend Article 1316, Chapter 12, Title XXX, Revised Civil Statutes of the State of Texas, relating to charges and instructions to juries."

There being an adverse majority committee report with a substitute bill, and an adverse minority committee report with a substitute bill,

Senator Skinner moved the adoption of the majority committee report.

Senator Harper moved, as a substitute, the adoption of the minority committee report.

Action recurring on the substitute motion first, the same was adopted by the following vote:

Yeas—16.

Chambers.	Meachum.
Faust.	Murray.
Glasscock.	Paulus.
Grinnan.	Smith.
Harbison.	Stokes.
Harper.	Stone.
Holsey.	Terrell.
Kellie.	Willacy.

Nays—9.

Alexander.	Hudspeth.
Brachfield.	Looney.
Cunningham.	Senter.
Green.	Skinner.
Greer.	

Absent.

Barrett.

Masterson.

Mayfield.
Veale.

Watson.

Absent—Excused.

Griggs.

Senator Harper moved to reconsider the vote by which the substitute motion was adopted, and lay that motion on the table.

The motion to table prevailed.

The motion, as substituted, was then adopted.

Senator Terrell offered the following amendment:

Amend the substitute by striking out the enacting clause.

Pending.

Senator Smith offered the following substitute for the bill:

A BILL

To Be Entitled

An Act to regulate the practice in the district, county and appellate courts and Supreme Court of the State, and with an emergency clause.

Be it enacted by the Legislature of the State of Texas:

Section 1. In all civil cases in the district and county courts of this State, wherein either party thereto shall demand a jury trial, deposit a jury fee therefor, and the cause is placed upon the jury trial docket, the issues of fact and law involved therein shall be plead by the parties to such suit prior to the day set for the jury trial of such cause. That if all such issues are not plead and made up when such cause is placed upon the jury docket, then the parties to such suit shall be required under the direction of, and within the time fixed by the court, to so plead and make up all such issues that are to be tried, prior to the day when such cause is to be tried, and no pleadings shall be amended, or new pleadings filed on the day set for such trial unless for good cause shown the court should so authorize.

Sec. 2. In all civil cases the court shall read and deliver to the jury at its discretion, either before or after the conclusion of the argument of counsel thereto, or on the conclusion of the evidence, if no arguments are to be made to the jury, a written charge on the law of the case, but before the delivery thereof to the jury, the court shall allow counsel of each party to the suit sufficient time to prepare and present written exceptions thereto, and prepare special instructions covering any omission or errors therein, which special instructions shall be submitted to opposing

counsel for objections, if any, and then delivered to the judge before the main charge is read to the jury, and thereafter the court may change, alter or modify such main charge so as to eliminate the errors and supply the omissions therein, before reading and delivering the same to the jury.

Sec. 3. The charge so delivered to the jury shall prior thereto be filed by the clerk and constitute a part of the record of the cause.

Sec. 4. Errors in the pleadings, the charge of the court or special charges, or errors in the admission or rejection of evidence, which are not excepted to at the time when made, assigned, pointed out or specified in a motion for a new trial filed within two days from the rendition of a verdict in such cause, shall be considered waived.

Sec. 5. That in all appeals the party complaining of errors, committed by the trial court, shall recite in his brief all such portions of the record in the cause as will tend and upon which he relies to show the errors complained of and which shows or tends to show that the errors complained of probably resulted in injury to the party so complaining.

Sec. 6. That no judgment in any civil case shall be reversed by the Court of Civil Appeals for errors that are waived by the provisions of this act, or for the improper admission or rejection of evidence or for errors as to any matter of pleading or procedure, or for the misdirection or non-direction of the jury in the charge of the court, unless in the opinion of the Court of Civil Appeals it shall be made to reasonably appear from the record in the cause that the error or errors complained of probably resulted in injury to the party so complaining.

Sec. 7. That the Supreme Court shall not grant a writ of error, nor reverse the judgment of the inferior court, unless it shall reasonably appear from the record in such cause that injury resulted to the applicant for such writ of error, or to the plaintiff in error from the ruling complained of.

Sec. 8. That all laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. The public necessity for simplifying the practice in civil cases, and the costs saved the litigants and the State thereby, the near approach of final adjournment of the Legislature, all create an imperative public necessity demanding that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and that this act take ef-

fect from and after its passage, and it is so enacted.

Pending.

Senator Harper moved that the further consideration of this bill be postponed until tomorrow morning at the conclusion of the morning call.

The motion prevailed.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

House bill No. 18, A bill to be entitled "An Act to amend Article 3231, Chapter 11, Title LXII, of the Revised Civil Statutes of Texas, 1895, relating to the verdict of juries in civil cases, so as to provide that in the trials of civil cases nine members of the jury concurring may render a verdict in the district court, and five jurors concurring may render a verdict in the county courts and courts of justices of the peace, and repealing all laws and parts of laws in conflict herewith," with engrossed rider.

House bill No. 8, A bill to be entitled "An Act to amend Section 8 of Chapter 130 of the Acts of the Regular Session of the Twenty-ninth Legislature of the State of Texas, approved April 17, 1905, entitled 'An Act to provide a method for the assessment and collection of taxes on real properties omitted from the tax rolls for the year or years since the year 1884, and a method for reassessing and collecting the tax on real properties on which former assessments are found to be invalid, or which have been declared invalid by any district court for any reason in any suit to enforce the collection of taxes on said properties; to validate certain described assessments made under various methods, and to promote generally the collection of all delinquent taxes,'" with engrossed rider.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

BILLS READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had referred, after their captions had been read, the following House bills:

House bill No. 18, to Judiciary Committee No. 1.

House bill No. 8, to Finance Committee.

MESSAGE FROM THE GOVERNOR.

Executive Office,
State of Texas.

Austin, Texas, April 24, 1907.

To the Legislature:

Pursuant to Section 40, Article 3, of the Constitution of the State of Texas, and by virtue of the authority vested in me by that section of the Constitution, I respectfully present for your consideration and for legislation, the general subject of revenue and taxation and especially the subject of enacting laws providing for an inheritance tax with appropriate exceptions.

T. M. CAMPBELL,
Governor.

SENATE BILL NO. 11.

The Chair laid before the Senate, on second reading and pending business,

Senate bill No. 11, A bill to be entitled "An Act providing for the appointment of court bailiff by the judges of the district courts in certain counties of this State, prescribing their qualifications, the oath to be taken by them, their compensation, their duties and providing suitable punishment for the violation of the duties imposed upon them, and declaring an emergency."

Senator Chambers offered the following amendment:

Amend the bill by striking out the enacting clause.

Senator Terrell offered the following amendment to perfect the bill:

Amend the bill by striking out all between the word "cases," in line 26, and the word "when," in line 27. of page 2.

Senator Chambers moved to table the amendment, which motion to table was lost by the following vote:

Yeas—10.

Alexander.	Holsey.
Chambers.	Hudspeth.
Faust.	Kellie.
Glasscock.	Murray.
Greer.	Stone.

Nays—16.

Barrett.	Meachum.
Brachfield.	Paulus.
Cunningham.	Senter.
Green.	Skinner.
Grinnan.	Smith.
Harbison.	Stokes.
Looney.	Terrell.
Mayfield.	Willacy.

Absent.

Harper.	Veale.
Masterson.	Watson.

Absent—Excused.

Griggs.

The amendment was adopted by the following vote:

Yeas—17.

Barrett.	Meachum.
Brachfield.	Paulus.
Cunningham.	Senter.
Green.	Skinner.
Grinnan.	Smith.
Harbison.	Stokes.
Hudspeth.	Terrell.
Looney.	Willacy.
Mayfield.	

Nays—9.

Alexander.	Holsey.
Chambers.	Kellie.
Faust.	Murray.
Glasscock.	Stone.
Greer.	

Absent.

Harper.	Veale.
Masterson.	Watson.

Absent—Excused.

Griggs.

Senator Senter offered the following amendment:

Amend the bill, Section 1, by striking out all after the word "State," in line 12, up to and including the word "jurors," in line 15.

SENER,
GREEN.

Pending.

RECESS.

On motion of Senator Alexander, the Senate, at 12:30 o'clock, recessed until 2:30 o'clock today.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

SENATE BILL NO. 11.

Action recurred on Senate bill No. 11, the question being on the amendment by Senator Senter.

The amendment was adopted by the following vote:

Yeas—13.

Alexander.	Looney.
Barrett.	Mayfield.
Cunningham.	Meachum.
Green.	Skinner.
Grinnan.	Stokes.
Harper.	Terrell.
Hudspeth.	

Nays—8.

Chambers.	Kellie.
Faust.	Murray.
Glasscock.	Paulus.
Greer.	Stone.

Absent.

Brachfield.	Smith.
Harbison.	Veale.
Holsey.	Watson.
Masterson.	Willacy.
Senter.	

Absent—Excused.

Griggs.

Senator Hudspeth offered the following amendment:

Amend the bill by striking out in line 24, page 1, "2500," and insert in lieu thereof "15,000."

HUDSPETH,
MEACHUM.

Senator Chambers offered the following amendment to the amendment:

Amend the amendment by striking out "15,000" and insert in lieu thereof "30,000."

Senator Looney moved to table the amendment to the amendment, which motion to table was lost by the following vote:

Yeas—7.

Barrett.	Looney.
Cunningham.	Meachum.
Green.	Skinner.
Harper.	

Nays—15.

Alexander.	Mayfield.
Chambers.	Murray.
Faust.	Paulus.
Glasscock.	Smith.
Greer.	Stokes.
Holsey.	Stone.
Hudspeth.	Terrell.
Kellie.	

Absent.

Brachfield.	Senter.
Grinnan.	Veale.
Harbison.	Watson.
Masterson.	Willacy.

Absent—Excused.

Griggs.

Senator Murray offered the following substitute for the amendment to the amendment:

Substitute the amendment to the amendment by striking out "30,000" and insert "35,000."

Senator Smith made the point of or-

der on the bill that the subject matter of same did not come within the bounds of the subjects submitted to the Legislature by the Governor in his proclamation convening the Legislature in Special Session.

The Chair overruled the point of order.

The substitute for the amendment to the amendment was adopted.

The amendment, as substituted, was then adopted.

Senator Looney offered the following amendment, which was adopted:

Amend the bill, page 3, Section 6, by striking out all after the word "another," in line 14, down to and including the word "courts," in line 17.

Action then recurred on the amendment by Senator Chambers, which was to strike out the enacting clause.

The amendment was lost by the following vote:

Yeas—10.

Alexander.	Holsey.
Brachfield.	Kellie.
Chambers.	Paulus.
Glasscock.	Smith.
Greer.	Stone.

Nays—12.

Barrett.	Meachum.
Grinnan.	Senter.
Harper.	Skinner.
Hudspeth.	Stokes.
Looney.	Terrell.
Mayfield.	Willacy.

Absent.

Cunningham.	Murray.
Faust.	Veale.
Harbison.	Watson.
Masterson.	

Absent—Excused.

Griggs.

PAIRED.

Senator Green (present), who would vote "nay," with Senator Faust (absent), who would vote "yea."

The bill was read second time, and ordered engrossed by the following vote:

Yeas—12.

Barrett.	Mayfield.
Cunningham.	Meachum.
Greer.	Senter.
Grinnan.	Skinner.
Harper.	Stokes.
Looney.	Terrell.

Nays—11.

Alexander.	Brachfield.
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Chambers.
Glasscock.
Holsey.
Hudspeth.
Murray.

Paulus.
Smith.
Stone.
Willacy.

Absent.

Harbison.
Kellie.
Masterson.

Veale.
Watson.

Absent—Excused.

Griggs.

PAIRED.

Senator Green (present), who would vote "yea," with Senator Faust (absent), who would vote "nay."

Senator Chambers moved to reconsider the vote by which the bill was ordered engrossed, and lay that motion on the table.

The motion to table prevailed by the following vote:

Yeas—15.

Barrett.	Meachum.
Cunningham.	Murray.
Greer.	Senter.
Grinnan.	Skinner.
Harper.	Stokes.
Hudspeth.	Terrell.
Looney.	Willacy.
Mayfield.	

Nays—8.

Alexander.	Holsey.
Brachfield.	Paulus.
Chambers.	Smith.
Glasscock.	Stone.

Absent.

Faust.	Masterson.
Harbison.	Veale.
Kellie.	Watson.

Absent—Excused.

Griggs.

PAIRED.

Senator Green (present), who would vote "yea," with Senator Faust (absent), who would vote "nay."

SENATE BILL NO. 2.

The Chair laid before the Senate, on second reading and as pending business, Senate bill No. 2, A bill to be entitled "An Act to amend Articles 5058, 5059 and 5060 of Title CIV, Chapter 1, Revised Civil Statutes of 1895 of the State of Texas, and to add thereto Article 5058a."

The committee report, which recommended a substitute bill, was adopted.

Senator Murray offered the following amendment, which was adopted:

Amend the bill by adding after the word "any," in line 15, page 5, the word "State."

Senator Skinner offered the following amendment:

Amend the bill by striking out the words "clerk and stenographer," in line 4, page 6, and insert in lieu thereof the words "office assistant and clerk."

Also strike out the word "nine," in line 5, page 6, and insert the word "ten" in lieu thereof.

HARPER,
SKINNER.

The amendment was adopted by the following vote:

Yeas—17.

Alexander.	Meachum.
Barrett.	Murray.
Brachfield.	Paulus.
Chambers.	Skinner.
Green.	Stokes.
Harper.	Stone.
Hudspeth.	Terrell.
Kellie.	Willacy.
Looney.	

Nays—4.

Glasscock.	Holsey.
Greer.	Smith.

Absent.

Cunningham.	Senter.
Faust.	Watson.
Grinnan.	Mayfield.
Harbison.	Veale.
Masterson.	

Absent—Excused.

Griggs.

Senator Terrell offered the following amendment:

Amend the bill by striking out the word "Travis," in line 11, page 5, and insert in lieu thereof the following: "Some adjoining."

The amendment was adopted by the following vote:

Yeas—17.

Alexander.	Paulus.
Barrett.	Senter.
Chambers.	Skinner.
Greer.	Smith.
Harper.	Stokes.
Holsey.	Stone.
Hudspeth.	Terrell.
Looney.	Willacy.
Meachum.	

Nays—6.

Brachfield.	Grinnan.
Glasscock.	Kellie.
Green.	Murray.

Absent.

Cunningham.	Mayfield.
Faust.	Veale.
Harbison.	Watson.
Masterson.	

Absent—Excused.

Griggs.

Senator Smith offered the following amendment:

Amend Section 1 by striking out all therein authorizing the appointment of deputies and defining their duties.

On motion of Senator Brachfield, the amendment was tabled.

The bill was read second time, and ordered engrossed by the following vote:

Yeas—14.

Alexander.	Kellie.
Barrett.	Meachum.
Brachfield.	Murray.
Chambers.	Paulus.
Green.	Skinner.
Holsey.	Terrell.
Hudspeth.	Willacy.

Nays—8.

Glasscock.	Senter.
Greer.	Smith.
Harper.	Stokes.
Looney.	Stone.

Absent.

Cunningham.	Masterson.
Faust.	Mayfield.
Grinnan.	Veale.
Harbison.	Watson.

Absent—Excused.

Griggs.

Senator Brachfield moved that the constitutional rule requiring bills to be read on three several days be suspended, and the bill put on its third reading and final passage.

The motion was lost by the following vote, a four-fifths vote being necessary:

Yeas—17.

Alexander.	Grinnan.
Barrett.	Holsey.
Brachfield.	Hudspeth.
Chambers.	Kellie.
Green.	Looney.

Meachum. Skinner.
Murray. Terrell.
Paulus. Willacy.
Senter.

Nays—5.

Greer. Stokes.
Harper. Stone.
Smith.

Absent.

Cunningham. Masterson.
Faust. Mayfield.
Glasscock. Veale.
Harbison. Watson.

Absent—Excused.

Griggs.

SENATE BILL NO. 12.

The Chair laid before the Senate, on second reading and as regular order,

Senate bill No. 12, A bill to be entitled "An Act to amend Article 762, Chapter 6, Title VIII, of the Code of Criminal Procedure of the State of Texas, adopted at the Regular Session of the Twenty-fourth Legislature, effecting the verdict in criminal causes so that said Article 762 may hereafter be as follows."

Senator Chambers made the point of order on the bill that the bill sought to repeal the same subject matter as a bill that had been previously voted down by the Senate at this Special Session."

The Chair sustained the point of order.

REFUSE TO ADJOURN.

Senator Kellie moved that the Senate adjourn until tomorrow morning at 10 o'clock. The motion was lost by the following vote:

Yeas—9.

Chambers. Kellie.
Green. Murray.
Grinnan. Stone.
Holsey. Willacy.
Hudspeth.

Nays—12.

Barrett. Paulus.
Glasscock. Senter.
Greer. Skinner.
Harper. Smith.
Looney. Stokes.
Meachum. Terrell.

Absent.

Alexander. Faust.
Brachfield. Harbison.
Cunningham. Masterson.

Mayfield. Watson.
Veale.

Absent—Excused.

Griggs.

SENATE BILL NO. 13.

The Chair laid before the Senate, on second reading and regular order,

Senate bill No. 13, A bill to be entitled "An Act to amend Articles 643 and 644, Chapter 2, Title VIII, of the Code of Criminal Procedure of the State of Texas, adopted at the Regular Session of the Twenty-fourth Legislature, providing for the order of a special venire in any district court in a criminal action for a capital offense, so that the said Articles 643 and 644 may hereafter be as follows."

There being a favorable majority committee report, with an amendment, and an unfavorable minority report,

Senator Senter moved the adoption of the majority committee report.

Senator Chambers moved, as a substitute, the adoption of the minority committee report.

The substitute motion was lost by the following vote:

Yeas—9.

Chambers. Paulus.
Harbison. Smith.
Harper. Stone.
Kellie. Terrell.
Murray.

Nays—12.

Barrett. Looney.
Glasscock. Meachum.
Green. Senter.
Greer. Skinner.
Grinnan. Stokes.
Hudspeth. Willacy.

Absent.

Alexander. Masterson.
Brachfield. Mayfield.
Cunningham. Veale.
Faust. Watson.
Holsey.

Absent—Excused.

Griggs.

The motion by Senator Senter to adopt the majority committee report was then adopted by the following vote:

Yeas—13.

Barrett. Grinnan.
Glasscock. Hudspeth.
Green. Looney.
Greer. Meachum.

Murray.	Stokes.
Senter.	Willacy.
Skinner.	

Nays—8.

Chambers.	Paulus.
Harbison.	Smith.
Harper.	Stone.
Kellie.	Terrell.

Absent.

Alexander.	Masterson.
Brachfield.	Mayfield.
Cunningham.	Veale.
Faust.	Watson.
Holsey.	

Absent—Excused.

Griggs.

Senator Senter offered the following amendment, which was adopted:

Amend the bill by adding to Article 644, as amended by the committee, after the words "set for trial," in line 28, the following words: "And the court shall grant such motion unless it shall reasonably appear, upon the hearing thereof, that the case will not be tried at said time, and in the event it should overrule the motion, it shall not proceed thereafter to the trial of the cause without summoning a special venire therefor; provided further, that if the application for a special venire shall be refused the court shall not proceed to a trial of the cause at said term of the court without the consent of the defendant."

The bill was read second time, and ordered engrossed by the following vote:

Yeas—14.

Barrett.	Looney.
Glasscock.	Meachum.
Green.	Senter.
Greer.	Skinner.
Grinnan.	Stokes.
Harbison.	Terrell.
Hudspeth.	Willacy.

Nays—7.

Chambers.	Paulus.
Harper.	Smith.
Kellie.	Stone.
Murray.	

Absent.

Alexander.	Masterson.
Brachfield.	Mayfield.
Cunningham.	Veale.
Faust.	Watson.
Holsey.	

Absent—Excused.

Griggs.

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Senator Senter moved to reconsider the vote by which the bill was ordered engrossed, and lay that motion on the table.

The motion to table prevailed.

SENATE BILL NO. 15.

The Chair laid before the Senate, on second reading and regular order,

Senate bill No. 15, A bill to be entitled "An Act to amend Article 723 of the Code of Criminal Procedure of the State of Texas, relating to new trials and the reversals on appeals."

ADJOURNMENT.

Senator Murray moved that the Senate adjourn until tomorrow morning at 10 o'clock. The motion was adopted by the following vote:

Yeas—11.

Barrett.	Kellie.
Chambers.	Murray.
Grinnan.	Smith.
Harbison.	Stone.
Harper.	Willacy.
Hudspeth.	

Nays—10.

Glasscock.	Paulus.
Green.	Senter.
Greer.	Skinner.
Looney.	Stokes.
Meachum.	Terrell.

Absent.

Alexander.	Masterson.
Brachfield.	Mayfield.
Cunningham.	Veale.
Faust.	Watson.
Holsey.	

Absent—Excused.

Griggs.

APPENDIX.

COMMITTEE REPORTS.

(Majority Report.)

Committee Room,
Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred Senate bills Nos. 41 and 43, have had same under consideration, and beg leave to report them back to the Senate with the recommendation that they do not pass, and be not printed, and that Sen-

ate Committee Substitute bills Nos. 41 and 43 be passed in lieu thereof.

BARRETT, Chairman.

S. C. S. B. Nos. 41 and 43.

A BILL

To Be Entitled

An Act to create a State Text-Book Board, and to procure for use in the public free schools of the State of Texas, a series of uniform text-books; defining the duties of certain officers therein named; making an appropriation therefor; defining certain misdemeanors; providing for a bond for the faithful performance of the contract, and to cover liquidated damages for fraud or collusion, and authorizing the Attorney General to bring suit therefor, and providing penalties for the violations of the provisions of this act.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Governor of this State, the Superintendent of Public Instruction of this State, and the President of the University of Texas shall, at such time after this act takes effect as will in their opinion best insure the proper accomplishment of its purposes, and not later than January 1, 1908, appoint five persons, resident citizens of Texas, who, together with the Governor and the State Superintendent of Public Instruction, shall constitute the State Text-Book Board, of which the Governor shall be chairman, and said Board shall, when called together by the Governor for that purpose, select and adopt text-books for use in the public schools in this State. Said Board is hereby authorized and required to select and adopt a uniform system of text-books to be used in the public free schools of Texas, and the series so selected shall include and be limited to text-books on the following subjects: Spelling, a graded series of reading books, a course in language lessons, grammar and elementary English composition, geography, arithmetic, mental arithmetic, elements of physiology and hygiene, civil government, elementary algebra, physical geography, history of the United States, in which the construction placed on the Federal Constitution by the Fathers of the Confederacy shall be fairly presented; history of Texas, elementary agriculture, and a graded system of writing books; provided, that none of the said text-books shall contain anything of a partisan or sectarian character, and that nothing in this act shall be construed to prevent the teaching of German, Bo-

hemian, Spanish, French, Latin or Greek in any of the public schools as a branch of study, but the teaching of one or more of these languages shall not interfere with the use of the text-books herein prescribed, and the study of a language known as a dead language, such as Latin and Greek, shall never be made compulsory as a requirement for the completion of any regular course of study in use in any public school in this State; provided further, that nothing herein shall be construed to prevent the use of supplementary books, but such supplementary books shall not be used to the exclusion of the books prescribed under the provisions of this act. But full use must be made in good faith of the books adopted under this act. Provided further, that said Board in selecting said books shall give preference to Texas authors, price and merit being equal to other text-books offered.

Sec. 2. The text-books shall be selected after a careful examination and consideration of all books presented, and the books selected shall be the best text-books in the opinion of the board, taking into consideration subject matter and its arrangement, the price of the book, and the needs of the public schools; provided, also, that no book shall be taken in exchange that was not in use in the public schools during 1907-1908, or which was not purchased by book dealers for the session of 1907-1908.

Sec. 3. The Governor shall for thirty days, and in such manner as he may deem best, advertise that, at the time and place fixed in said notice, and not later than February 1, 1908, sealed bids will be received. Each bid shall state specifically at what price each book will be furnished, and shall be accompanied with specimen copies of each and all books offered, and it shall be required that each bidder deposit with the Treasurer of the State of Texas such sum of money as the Board may require, not less than \$500 nor more than \$2500, according to the value of the books each bidder may propose to supply. Such deposits shall be forfeited to the State absolutely if such bidder so depositing shall fail to make and execute such contract and bond as are herein required within such time as the Board may require, which time shall be specified in the notice advertised; and it shall be further required of all publishers submitting bids to the Board for its consideration that they file with the Secretary of State an affidavit that no member of the board is in any manner interested, directly or indirectly, in any firm or corporation submitting books for

adoption. If the fact should be disclosed that any member of the Board is so interested, it shall work a disqualification of such member of the board, and he shall not be permitted to serve on the Board created under the provisions of this act; or if it should further appear or be disclosed that any member of the Board is interested in any book or series of books as the author, or associate author, or in any manner, such fact shall likewise work a disqualification of such member, and he shall not be permitted to serve upon the Board. And each member of the Board, except the Governor, after a called session of the Board at which any books are adopted, shall make and file with the Secretary of State an affidavit in writing that he is not, and has not been, directly or indirectly interested in or related to any publishing house, person, firm or corporation submitting any books for adoption, or in any books offered for adoption, nor is he related to any person or agent representing such house, person, firm or corporation, and that he will not become so interested, and will not accept any position as agent or representative of any person, firm or corporation to whom any contract may be awarded by said board during the term and duration of said contract and that he is not related to any person or agent representing said house, firm or corporation.

Sec. 4. Any vacancy occurring upon the Board from any cause shall be filled by appointment of the Governor. All bids shall be sealed and deposited with the Governor of the State to be by him delivered to the Board in session for the purpose of considering same, provided that the Text-Book Board shall not consider a bid of any publisher of school books who has on or before June 1, 1907, failed to pay the tax due and payable under Chapter 148, Acts of the Twenty-ninth Legislature. All bids shall be opened in the presence of the Board. When any person has been awarded a contract and he has filed his bond and contract with the Board, it shall make an order on the Treasurer of the State reciting such fact, and thereupon the Treasurer shall return the deposit of such bidder, but if any successful bidder shall fail to make and execute the contract and bond as hereinbefore provided, the Treasurer shall place the deposit of said bidder in the State Treasury to the credit of the available school fund, and the Board shall re-advertise for for other bids to supply such books which the said bidder failed to supply. All unsuccessful bidders shall have their deposits returned to them as soon as the Board

has decided not to accept their bids. All books adopted by the Board shall be printed in English. The Board shall stipulate in the contract that where a change shall have been made from the books now in use the contractor or contractors shall take in exchange the respective books at present adopted by the State, or by any city having a population in excess of ten thousand, in part payment for the new books, and all bidders under this act shall state what allowance they will make for the said respective books adopted by the State, or by any city having a population in excess of ten thousand, now in the hands of the patrons of the public schools, when offered in exchange for the new books adopted under this act; provided, that said allowance and condition for the exchange of old books shall be in force during the scholastic year beginning September 1, 1908. The bidder or bidders to whom any contract may have been awarded shall make and execute a good and sufficient bond, payable to the State of Texas, and in the sum of not less than \$10,000, to be approved by the Governor; such bond to be conditioned that the contractor or contractors shall faithfully perform all the conditions of the contract. The contract and bond shall be prepared by the Attorney General, and shall be made to conform with all the requirements of this act, and shall be payable in Travis county, Texas, which shall be deposited in the office of the Secretary of State. The bond shall not be exhausted by a single recovery thereon, but may be sued upon from time to time until the full amount thereof is recovered, and the board may at any time after twenty days notice require a new bond to be given, and in the event the contractor or contractors shall fail to furnish such new bond the contract of such contractor or contractors may, at the option of the Board, be forfeited.

Sec. 5. It shall be the duty of the Board to meet at the time and place mentioned in the notice and advertisement, and shall adopt such rules and regulations as may be necessary to the transaction of its business, not contrary to the provisions of this act, and shall then and there open and examine the sealed proposals received, and it shall be the duty of the Board to make a full and complete investigation of all books and bids accompanying the same. The literary merits of the books shall be the main point to be considered in their adoption. The Board shall then proceed without delay to adopt for use in the public schools in this State text-books on the branches hereinbefore mentioned,

and shall notify the publishers to whom contracts are awarded. Each contract shall be duly signed by the publishing house or its authorized officers and agents, and if it is found to be in accordance with the award and all the provisions of this act, and if the bond herein required is presented and duly approved the Board shall approve said contract and order it to be signed on behalf of the State by the Governor in his capacity as chairman. All contracts shall be made in duplicate. One copy to remain in the custody of the Secretary of State and to be copied in full in the minutes of the meeting of the Board in a well-bound book, and the other copy to be delivered to the company or its agent. The contract prices of each book shall be plainly printed on the back of each book, together with the following notice: "The prices marked hereon are fixed by the State and any deviation therefrom should be reported to the State Superintendent at Austin, Texas." The Board shall not in any case contract with any publisher for any book or books to be used in the public schools of this State at a price in excess of the lowest price at which said publisher or publishers furnish and distribute the same book or books under contract with any other State, county or school district in the United States; provided, that no book or books shall be purchased from any person, firm or corporation who is a member of or connected with any trust.

Sec. 6. It shall be a part of the terms and conditions of every contract made in pursuance of this act that the State of Texas shall not be liable to any contractor thereunder for any sum whatever, but all such contracts shall receive compensation solely and exclusively from the proceeds of the sale of books as provided in this act; and it is hereby provided that the State shall have the right to terminate said contract whenever the law is repealed or amended, altered or qualified, as to make necessary or expedient that such contract should be revoked, and all contracts shall contain a stipulation to that effect. The State may, at its election, cancel any contract entered into by virtue of the provisions of this act for fraud or collusion upon the part of either party to the contract, or any member of the Board, or any person, firm, corporation or their agents making said bond or contract, and for the cancellation of any such contract the Attorney General is hereby authorized to bring suit in the proper court of Travis county, and in case of the cancellation of any contracts as above provided for, the damages are fixed at not

less than the amount of said bond, to be recovered as liquidated damages in the same suit cancelling said contract; and on account of the difficulty of determining the damage that might accrue by reason of such fraud and cancellation of such contract, the full amount of the bond given by any contractor shall be considered as liquidated damages to be recovered out of said bond by the State at the suit of the Attorney General, and every contract shall contain a clause to this effect.

Sec. 7. As soon as the State shall have entered into the contracts for the furnishing of books for use in the public schools in this State under the provisions of this act it shall be the duty of the Governor to issue his proclamation of such fact to the people of the State, and the State Superintendent of Public Instruction shall carefully label and file away the copies of the books adopted as furnished for examination to the Board, and such copies of said books be securely kept and the standard of quality and mechanical excellence to be maintained in said books during the continuance of the contract.

Sec. 8. The party with whom the contract has been made shall establish and maintain in some city in this State a depository where a stock of their goods to supply all immediate demands shall be kept, all contractors not maintaining their own individual or separate State agencies or depositories shall maintain a joint State agency or depository to be located at some convenient and suitable distributing point, both the agent and location to be designated and approved by the State Text-Book Board, at which general depository each contractor joining in said joint agency shall keep on hand a sufficient stock of books to supply sub-depositories, and every contractor shall establish and maintain in every county in the State having an enrollment of five hundred pupils or more in the public schools, as shown in the last preceding report to the county superintendent, on file in the office of the State Superintendent of Public Instruction, one or more agencies, one of which shall be at the county seat. At each county seat as above provided, and in every city in this State, containing one thousand inhabitants or over, there shall be maintained an agency carrying a sufficient stock of all books contracted for to supply all immediate demands. And any person, dealer or school board in any county in the State may order from the central agency and the books so ordered shall be furnished at the same rates discount as are granted the agents at the county seat; provided, that the price of

the books so ordered be paid in advance. Upon failure of any contractor under the provisions of this act to furnish the books as provided in the contract and in this act, the county judge wherein such books have not been so furnished, shall report the fact to the Attorney General, and shall bring suit on account of such failure in the name of the State of Texas, in the district court of Travis county, and recover on the bond given by such contractor for the full value of the books not furnished as required; and in addition thereto the sum of one hundred dollars (\$100) and the amounts so recovered shall be placed to the credit of the available school fund of the State. Unorganized counties shall be furnished from the same agency as the county to which said unorganized county is attached for judicial purposes in the same manner as such organized county.

Sec. 9. As soon as practicable after the adoption of the text-book provided for in this act, the Superintendent of Public Instruction shall address a circular letter to the county superintendents and the presidents of school board in independent districts, which circular letter shall contain a list of the books adopted, with their respective prices, together with such other information as he may deem advisable.

Sec. 10. The books adopted by the Board under the provisions of this act shall be introduced and used as text-books to the exclusion of all others in the public free schools of this State, for a period covering five scholastic years, beginning September 1, 1908, provided nothing in this act shall be construed to prevent or prohibit the patrons of the public schools throughout the State from procuring books in the usual way in the event that no contracts are made, or in the event that the contractor fails or refuses to furnish the books provided for in this act at the time that said books are required for use in the schools.

Sec. 11. Any school trustee who shall prevent or aid in preventing the use in any public school in this State of the books, or any of them, and adopted under the provisions of this act, or any teacher in the State who shall wilfully fail or refuse to use the books adopted under the provisions of this act, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than \$5 nor more than \$50 for such offense, and each day of such willfull failure or refusal by said teacher or prevention of the use of the books by said school trustee shall constitute a separate offense.

Sec. 12. The sum of \$1000, or so much thereof as may be necessary, is hereby appropriated out of the general revenue

of this State not otherwise appropriated for the purpose of paying the cost and expense of putting into effect the provisions of this act; provided, that the teachers selected under the provisions of this act shall receive as compensation for their services the sum of \$5 per day while on duty and actual traveling expenses in going to and returning from the place of meeting, to be paid upon warrants drawn by the Comptroller under the direction and approval of the Governor.

Sec. 13. Any person, firm or corporation with whom a contract has been entered into under the provisions of this act, shall designate the Secretary of the State of Texas as its or their agent upon whom citation and all other writs and process may be served in the event any suit shall be brought against such person, firm or corporation.

Sec. 14. The fact that there is no law in this State to authorize the selection of text-books for the public schools in this State, and the present contract for text-books will shortly expire, creates an emergency and an imperative public necessity requiring the constitutional rule for bills to be read on three several days be suspended, and it is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

(Minority Report.)

Committee Room,

Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, a minority of your Committee on Educational Affairs, recommend the passage of Senate Committee Substitute bills Nos. 41 and 43, with the following amendment:

Amend by striking out all after the word "State," in line 1, down to and including the word "Texas," in line 3, of Senate Committee Substitute bills Nos. 41 and 43.

BARRETT,
PAULUS,
GREEN,
MEACHUM.

(Majority Report.)

Committee Room,

Austin, Texas, April 23, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Internal Improvements, to whom was referred

Senate bill No. 44, A bill to be entitled "An Act to amend Article 4542, Title XCIV, Chapter 11, of the Revised Statutes of 1895,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

BRACHFIELD, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, April 23, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, a minority of your Committee on Internal Improvements, to whom was referred

Senate bill No. 44, A bill to be entitled "An Act to amend Article 4542, Title XCIV, Chapter 11, of the Revised Statutes of 1895,"

Have had the same under consideration, and we report it back to the Senate with the recommendation that it do not pass.

WILLACY,
FAUST,
GREEN,
MEACHUM.

(Floor Report.)

Committee Room,
Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Judiciary Committee No. 1, to whom was referred

Senate bill No. 47, A bill to be entitled "An Act to limit the jurisdiction of the several courts of the State of Texas in suits by parties who are not citizens of this State, and declaring an emergency,"

Have had the same under consideration, and we report same back to the Senate with the recommendation that it do pass.

Stone, Chairman; Grinnan, Harper, Paulus, Green, Chambers, Meachum.

Committee Room,
Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 27, A bill to be entitled "An Act to amend Articles 5091, 5094, 5095, 5099, 5106, 5120, 5123, of Title CIV, Chapter 3, of the Revised Statutes of 1895, pertaining to the duties of tax assessors and their deputies, and the assessment of property for taxation, and the preparation of the tax rolls and other matters pertaining thereto, and adding to said title and chapter Articles 5153a, 5153b, 5153c, 5153d and 5153e, providing for penalties for the

violation of the provisions of this act and the mode of enforcing the provisions of this act, and providing an emergency, and amending Article 5098 of an act passed by the Twenty-fifth Legislature, Chapter 142, page 204 of the Acts of said Legislature, which was an amendment of Article 5098 of the Revised Statutes of Texas of 1895,"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass, and be not printed.

STONE, Chairman.

(Majority Report.)

Committee Room,
Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 3, A bill to be entitled "An Act concerning the jurisdiction of the Court of Civil Appeals, and to amend Article 996, Chapter 13, of the Revised Civil Statutes of the State of Texas,"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do not pass.

STONE, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, a minority of your Judiciary Committee No. 1, to whom was referred

Senate bill No. 3, A bill to be entitled "An Act concerning the jurisdiction of the Court of Civil Appeals, and to amend Article 996, Chapter 13, of the Revised Civil Statutes of the State of Texas,"

Have had the same under consideration, and we report same back to the Senate with the recommendation that it do pass.

SKINNER,
GREEN.

Committee Room,
Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 24, A bill to be entitled "An Act to compel telephone and telegraph companies to make connections

with other telephone lines doing a like business."

And find the same correctly engrossed.
CUNNINGHAM, Chairman.

Committee Room,

Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 31, A bill to be entitled "An Act to simplify trials for the contest of local option elections, and to simplify criminal trials that arise under local option laws by amending Article 3397 of Title LXIX, Revised Civil Statutes of Texas, providing the time and manner in which local option elections may be contested, prescribing the effect to be given the judgment of the courts in which said election is contested, and provided further, that when no contest is filed as provided in the act that the legality of the election and the result as declared shall be conclusively presumed and shall be binding upon all courts, repealing all laws in conflict with this act, and declaring an emergency,"

And find the same correctly engrossed.
CUNNINGHAM, Chairman.

TENTH DAY.

Senate Chamber,
Austin Texas.

Thursday, April 25, 1907.

The Senate met pursuant to adjournment. Lieutenant Governor Davidson presiding.

Roll call, quorum present, the following Senators answering to their names:

Alexander.	Kellie.
Barrett.	Looney.
Brachfield.	Mayfield.
Chambers.	Meachum.
Cunningham.	Murray.
Faust.	Paulus.
Glasscock.	Senter.
Green.	Skinner.
Greer.	Smith.
Grinnan.	Stokes.
Harbison.	Stone.
Harper.	Terrell.
Holsey.	Watson.
Hudspeth.	Willacy.

Absent.

Masterson. Veale.

Absent—Excused.

Griggs.

Prayer by the Chaplain. Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Kellie, the same was dispensed with.

(See Appendix for committee reports.)

BILLS AND RESOLUTIONS.

By Senator Faust:

Senate bill No. 48. A bill to be entitled "An Act to amend Article 1092, Chapter 2, Title XV, of the Code of Criminal Procedure of the State of Texas, relating to fees of county and district attorneys in examining trials."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Stone (by request):

Senate bill No. 49. A bill to be entitled "An Act authorizing a district judge where more than one defendant is charged by indictment or information to try them all together in one trial."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Stone (by request):

Senate bill No. 50. A bill to be entitled "An Act to amend Article 770 of the Code of Criminal Procedure of the State of Texas."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Stone (by request):

Senate bill No. 51. A bill to be entitled "An Act to repeal Articles 771, 781, 706, 707, 708 and 710, Code of Criminal Procedure of the State of Texas."

Read first time, and referred to Judiciary Committee No. 2.

Morning call concluded.

SENATE BILL NO. 11.

Senate bill No. 1 was special order for this hour.

Senator Looney moved that the pending business (Senate bill No. 1) be suspended and the Senate take up, out of its order, Senate bill No. 11.

Senator Meachum moved as a substitute that the pending order of business (Senate bill No. 1) be suspended, and the Senate take up, out of its order, Senate bill No. 11 and that Senate bill No. 1 be made a special order for tomorrow morning at the conclusion of the morning call.

The substitute motion was adopted by the following vote:

Yeas—20.

Alexander.	Chambers.
Barrett.	Cunningham.